

**1. Applicant's Name:**

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for period under review is honorable. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, after being injured in Iraq the applicant was sent to the rear detachment where they started the medical board process. The applicant was in a confrontation with the rear detachment commander and was then threatened by the commander by saying they would put the applicant behind bars for insubordination; however, a mental health doctor pushed for a mental disorder chapter to keep the applicant from being imprisoned. The medical board was stopped, and the applicant was discharged with a general (under honorable conditions). The applicant served honorably in Iraq and received a Purple Heart after getting hit by shrapnel causing permanent damage to multiple parts of the applicant's body. The applicant was granted 80 percent disability with 100 percent unemployability status from the VA. The applicant believes they were not given a fair discharge or treatment after everything they went through while serving this country.

**b. Board Type and Decision:** In a records review conducted on 1 October 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Condition, Not a Disability / AR 635-200, Paragraph 5-17 / JFV / RE-3 / Honorable

**b. Date of Discharge:** 12 December 2005

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 19 October 2005

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant was diagnosed with Post Traumatic Stress.

**(3) Recommended Characterization:** General (Under Honorable Conditions)

**(4) Legal Consultation Date:** 2 November 2005

**(5) Administrative Separation Board:** NA

**(6) Separation Decision Date / Characterization:** 9 November 2005 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 7 January 2004 / 3 years / The Commander's Report reflects enlistment date of 16 February 2004.

**b. Age at Enlistment / Education / GT Score:** 20 / NIF / 105

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 13M10, Multiple Launch Rocket System / HIMARS Crewmember / 1 year, 11 months, 6 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Iraq (NIF)

**f. Awards and Decorations:** PH, NDSM, ASR, GWOTSM

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Summarized Article 15, 9 August 2004, on or about 2 July (x2), 6 July, and 14 July 2004 (x2), without authority, fail to go at the time prescribed to the appointed place of duty. The punishment consisted of extra duty and restriction for 14 days.

Four Personnel Action Forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 20 September 2004;

From AWOL to PDY, effective 19 October 2004;

From PDY to Confined by Civilian Authorities (CCA) effective 19 October 2004; and,

From CCA to PDY, effective 28 October 2004.

FG Article 15, 30 November 2004, on or about 20 September 2004, without authority, absent oneself from the unit and did remain so absent until on or about 19 October 2004. The punishment consisted of a reduction to E-1; forfeiture of \$597 pay per month for two months (suspended); and extra duty and restriction for 45 days.

CG Article 15, 13 October 2005, on or about 8 September 2005, wrongfully communicate to SFC C. L. T. a threat to kick CPT D's ass and or kill CPT D. The punishment consisted of forfeiture of \$339 pay per month for one month (suspended); and extra duty and restriction for 14 days.

Several Developmental Counseling Forms, for various acts of misconduct.

**i. Lost Time / Mode of Return:** 38 days:

AWOL for 29 days, 20 September 2004 – 19 October 2004. This period is not annotated on the DD Form 214 block 29.

CCA for 9 days, 19 October 2004 – 28 October 2004 / Released from Confinement. This period is not annotated on the DD Form 214 block 29.

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Department of Veterans Affairs Benefit letter, undated, reflects the applicant was granted entitlement to Individual Unemployability effective 1 August 2007. The applicant was granted 100 percent because of service-connected disability(s) make the applicant unable to secure or follow a substantially gainful occupation.

**(2) AMHRR Listed:** Report of Behavioral Health Evaluation (BHE), 16 September 2005, reflects the applicant was cleared for any administrative actions deemed appropriate by the command and met psychiatric criteria for Expeditious administrative separation IAW Chapter 5-17, AR 635-200. The evaluation contains a diagnosis.

Report of Medical History, 4 October 2005, the examining medical physician noted the applicant's medical conditions in the comments section.

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** Online application; VA Benefit letter; Certificate of Release or Discharge from Active Duty.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

**a.** Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

**b.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in

whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation) establishes the Army Physical Disability Evaluation System according to the provisions of chapter 61, title 10, United States Code (10 USC 61) and Department of Defense Directive (DODD) 1332.18. It sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating. If a Soldier is found unfit because of physical disability, this regulation provides for disposition of the Soldier according to applicable laws and regulations. The objectives of this regulation are to maintain an effective and fit military organization with maximum use of available manpower and provide benefits for eligible Soldiers whose military service is terminated because of a service-connected disability; and provide prompt disability processing while ensuring that the rights and interests of the Government and the Soldier are protected.

Paragraph 4-24b(1), states, based upon the final decision of USAPDA or APDAB, USAPDA will issue separation orders for permanent retirement for physical disability (10 USC 1201 or 1204).

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

f. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "SFJ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-40, Chapter 4-24b(1), Disability, Permanent.

g. Army Regulation 601-210 (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable.

The applicant contends good service, including a combat tour and receiving the Purple Heart.

The applicant contends after being injured in Iraq the applicant was sent to rear detachment where they started the medical board process. The applicant was in a confrontation with the rear detachment commander and was then threatened by the commander by saying they would put the applicant behind bars for insubordination; however, a mental health doctor pushed for a mental disorder chapter to keep the applicant from being imprisoned. The medical board was stopped, and the applicant was discharged with a general (under honorable conditions). The applicant believes they were not given a fair discharge or treatment after everything they went through while serving this country. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being granted 80 percent disability with 100 percent unemployability status from the VA. The applicant provided Department of Veterans Affairs Benefit letter, undated, which reflects the applicant was granted entitlement to Individual Unemployability effective 1 August 2007. The applicant was granted 100 percent because of service-connected disability(s) make the applicant unable to secure or follow a substantially gainful occupation.

**9. BOARD DISCUSSION AND DETERMINATION:**

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **No.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: A review of the records reflects the applicant was separated for PTSD. Records reflect the applicant was diagnosed with Chronic PTSD during service and is 100 percent SC for PTSD by the VA. Records do not contain evidence that the applicant's BH condition warranted separation through military medical channels. As it relates to the misconduct, the applicant's multiple instances of AWOL and FTRs that occurred prior to deployment would not have been mitigated by PTSD. However, given the nexus between PTSD and angry outburst and problems with authority, the offense of communicating a threat would have been mitigated by the condition. The applicant previously petitioned the board and was afforded relief in the form of an upgrade to honorable on the basis that command failed to notify the applicant of the specific factor that warranted a GD as required by AR 635-200.

(2) Did the condition exist or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s):

(1) The applicant contends good service, including a combat tour and receiving the Purple Heart. The Board considered this contention but found that the applicant holds the maximum relief available with respect to characterization and narrative reason for separation. The Board found that a change to the applicant's reentry eligibility code is not warranted due to the applicant's diagnosed behavioral health conditions.

(2) The applicant contends after being injured in Iraq the applicant was sent to rear detachment where they started the medical board process. The applicant was in a confrontation with the rear detachment commander and was then threatened by the commander by saying they would put the applicant behind bars for insubordination; however, a mental health doctor pushed for a mental disorder chapter to keep the applicant from being imprisoned. The medical board was stopped, and the applicant was discharged with a general (under honorable conditions). The applicant believes they were not given a fair discharge or treatment after everything they went through while serving this country. The Board considered this contention but found that the applicant holds the maximum relief available with respect to characterization and narrative reason for separation. The Board found that a change to the applicant's reentry eligibility code is not warranted due to the applicant's diagnosed behavioral health conditions.

(3) The applicant contends being granted 80 percent disability with 100 percent unemployability status from the VA. The Board considered this contention but found that the applicant holds the maximum relief available with respect to characterization and narrative reason for separation. The Board found that a change to the applicant's reentry eligibility code is not warranted due to the applicant's diagnosed behavioral health conditions.

c. The Board determined that the discharge is, at this time, proper and equitable, in light of the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of

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Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d. Rationale for Decision:**

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further relief is not available.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code, as the reason the applicant was discharged was both proper and equitable.

(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order:** No
- b. Change Characterization to:** No Change
- c. Change Reason / SPD Code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

**Authenticating Official:**

10/16/2024

**X**

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs